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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,320	10/17/2001	Michael J. Russell	9721.9544B	6571

7590

06/06/2003

John P. Costello
Weintraub Genshlea Chediak Sproul
11th Floor
400 Capitol Mall
Sacramento, CA 95814

EXAMINER

GIBSON, ROY DEAN

ART UNIT

PAPER NUMBER

3739

DATE MAILED: 06/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/982,320

Applicant(s)

RUSSELL, MICHAEL J.

Examiner

Roy D. Gibson

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 19,21-23 and 30-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 21-23 is/are allowed.
- 6) ☐ Claim(s) 19 and 30-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Entry of Amendment

Applicant's amendment filed on 25 March 2003, as Paper No. 3, is acknowledged. Claims 1-18, 20 and 24-29 have been canceled and new claims 30-49 have been added by the applicant, therefore, claims 19, 21-23 and 30-49 are currently pending.

Prior Rejections or Objections

The following comments pertain to the rejections or objections in the most recent Office action, Paper No. 4, mailed on Feb. 4, 2003. Rejections under 35 U.S.C. 101, 102 and 103 are withdrawn, however, new grounds of rejection are presented below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 19 and 30-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 19, in lines 6 and 7, the location of the current stoppage means is unclear, i.e., not specifically recited as to overcome the problem of insufficient protection shown in Figure 3.

As to claim 30, it is unclear where the current stoppage means is precisely located, since the phrase "aft of the conductive lead" only generally means "behind the conductive lead".

As to claim 31, it is unclear where the current stoppage means is precisely located, because "coupled to the proximal end of the electrode" does not necessarily mean "immediately adjacent the proximal end of the electrode".

As to claim 46, it is unclear where the fuse is precisely located so as to prevent the passage of harmful current to the proximal end of the electrode, again so to avoid the problem cited by the applicant in Figure 3.

As to claim 49, the examiner believes the phrase "pico fuse" is part of the description of small rated fuses by the manufacturer, and does not provide a further limitation to claim 49 over claim 48.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30-31, 33 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Knoll (4,744,369) or (5,761,019).

As to claims 30 and 31, Knoll discloses a medical electrode comprising:
a distal end for connecting to a medical device (Figure 1);
a proximal end for connecting to a patient;
a conductive lead connected between the distal and proximal ends; and

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a current stoppage means (device 10) connected aft of the conductive lead portion (13) and which is also "coupled" to the proximal end of the electrode (col. 3, lines 20-57 of P/N '369).

As to claims 33 and 37, Knoll discloses the current stoppage means has a diode (35 and col. 5, lines 11-15).

Claim Rejections - 35 USC § 103

Claims 40-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoll. The examiner maintains that the configurations claimed for the proximal end of the medical electrodes are well known in the art and are recitations of intended use only for the current stoppage means. Also see the comments of the examiner in the prior Office action referenced above.

Allowable Subject Matter

Claims 21-23 are allowed.

Claims 19 and 46 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 32, 34-36, 38-39, 44-45 and 47-48 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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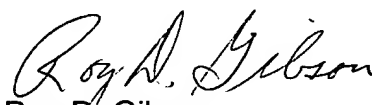
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sanfilippo (5,626,135) discloses a medical electrode with a clip; and Cooke (5,498,242) discloses a medical electrode with a needle).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 703-308-3520. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 703-308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.


Roy D. Gibson
Primary Examiner
Art Unit 3739

June 2, 2003